

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Gregory D. Downs
602 Valleywood Court
Columbia, SC 29212.

File Number: 124069

**Consent Order
Vacating Revocation by Default, and
Imposing Administrative Penalty**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and above named respondent, a licensed South Carolina resident insurance producer.

Upon review of this matter, I hereby find as fact that Gregory Downs, while licensed to do business as a resident insurance producer within the State of South Carolina, did fail to notify the Department of his new address, during the time he was being investigated under an allegation of "unfair trade practices." As a result, the Department's numerous attempts to reach him were unsuccessful, resulting in the revocation of his producer's license by default, effective April 25, 2005. Mr. Downs subsequently contacted our offices on May 3, 2005, appealing the Department's decision. The Department has agreed to vacate the revocation of his producer's license and re-open the case regarding the unfair trade practices. Mr. Downs acknowledges his failure to notify the Department of his change of address and understands that these actions can ultimately lead to the revocation of his license to transact the business of Insurance as a producer in South Carolina, following a public hearing at the Administrative Law Court.

Prior to the initiation of any administrative proceedings by the Department against him, Gregory Downs and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Mr. Downs would immediately pay an administrative penalty through the Department in the amount of \$2,500.00 dollars, for his failure to provide his change of address and the Department would vacate the revocation of his producer license by default and proceed with its action against him for the allegations of unfair trade practices.

Section 38-43-130 of the South Carolina Code of Administrative Laws grants the Director of Insurance the power to revoke an insurance producer's license for violating any of South Carolina's Insurance laws or regulations.

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Gregory Downs had violated S.C. Codes Ann. § 38-43-130 and §38-43-107(A)(Supp.2004), which specifically mandates that..."a producer shall notify the department within thirty days of any change in legal name or addresses." Subsection (B) states

that "failure to inform the insurance director or his designee of a change in legal name or address within this period shall result in a penalty, pursuant to Section 38-2-10." As a result, I can now take administrative disciplinary action against his insurance producer's license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2004), and after carefully considering the recommendation of the parties, I hereby impose against respondent an administrative penalty in the amount of \$2,500.00 dollars. He must pay the fine within ten days of the date of receipt of this Consent Order. Failure to timely pay that penalty will result in his resident insurance producer's license being immediately revoked without any further disciplinary proceedings and/or rights to appeals.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Mr. Downs before, of his assurances that in the future he will fully comply with the State's insurance laws, and the understanding that the allegations of "unfair trade practices" filed against him shall be thoroughly investigated by the Department. The parties expressly agree and understand that this resolution constitutes full accord and satisfaction of the matter relevant to respondent's failure to notify his change of address.


By his signature upon this consent order, Gregory D. Downs acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2004).

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the Law relative to the business of Insurance or the provisions of this Title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2004).

It is, therefore, ordered that Gregory Downs, within ten days of the date of receipt of this consent order, pay to the Department an administrative penalty in the total amount of \$2,500.00 dollars, that the revocation of his producer's license by default be vacated and that the Department proceed with the investigation of the complaint based on "unfair trade practices", pending against him.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Downs' licensing file.

This order becomes effective as of the date of my signature below.


Eleanor Kitzman
Director

May 12, 2005, at
Columbia, South Carolina

I CONSENT:  (signature)

Gregory G. Downs Full Name

Financial Advisor Title

Addresses and Telephone Numbers:

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Columbia, SC

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Dated this 11th day of May, 2005.